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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/702,280 10/30/00 HUANG

Y	NECS-00-016
EXAMINER	

MMC2/0806

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ART. UNIT	PAPER NUMBER
SCHUBERG, R.	

DATE MAILED:

08/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/702,280

Applicant(s)

Huang et al

Examiner

Darren Schuberg

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 2-6 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, applicants state that the focusing lens has a focal plane at the second face of the birefringent walk-off crystal. However, the specification clearly states that the focusing lens focuses the light at the first face of the walk-off crystal (page 10, lines 13-16). Thus, applicants have failed to properly set forth how to make their invention.

Claim Rejections - 35 USC § 103

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. patent of Cheng.

The Cheng patent teaches, in Figure 3a, all of the claimed elements except for the use of two lenses (a collimating and focusing lens), the use of polarization maintaining fibers and the specific size ranges of the device. As seen, there is a first fiber (16c) defining a first axis, a second fiber (16a) defining a second axis and a third fiber (16b) defining a third axis which is parallel to and spaced apart from the second axis. There is also a focusing lens (32) and a birefringent walk-off crystal (30) which has a first face adjacent to the lens and a second face in contact with the second and third fibers and at the focal point of the focusing lens. In terms of the fibers, it is believed at least obvious, if not inherent, that the Cheng device uses polarization maintaining fibers, since it is used as a polarization beam splitter, which necessitates the exiting

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fibers (16a, 16b) maintaining the polarization states of the exiting beams. As to the sizes, column 3 line 55 describes the crystal (30) of Figure 3a being $1/50^{\text{th}}$ the size of the conventional splitter/combiner device. It is believed this value, while not specifically given in Cheng, is inherently within those value ranges set forth in applicants' claims 4-6.

As for the use of two lenses, one for collimating and one for focusing, it would have been obvious to those of ordinary skill in the art to use such a two lens design in place of the single lens (32) of Cheng in order to allow for more room for alignment error in the device. When producing collimated light from the first fiber (16c), the placement along the first axis need not be so exact in terms of the focusing lens in order to maintain the position of the focused beams on the second and third fibers.

Conclusion

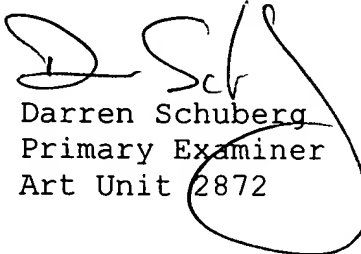
5. Papers related to this application may be submitted by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The fax number for Art Unit 2872 is (703) 308-7722.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren Schuberg whose telephone number is (703) 308-4815.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

7/31/01


Darren Schuberg
Primary Examiner
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